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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,469	09/11/2003	Thomas E. Sawyer	026066-00006	6832

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EXAMINER
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NGUYEN, KIM T

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/659,469

Applicant(s)

SAWYER, THOMAS E.

Examiner

Kim T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5,7 and 9-28 is/are pending in the application.
- 4a) Of the above claim(s) 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7 and 9-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Examiner acknowledges receipt of the RCE filed with the amendment on 1/12/06. According to the amendment, claims 1-5, 7 and 9-28 are pending in the application.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-2, 4-5, 7 and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furuta et al (US 2003/0094761) in view of Goldman (US 5,997,002) and Guidi (US 5,839,732).**

Claims 1-2 and 4: Furuta discloses a method for playing a card game. The method comprises receiving a selection indicating whether to participate in the auxiliary play from a player, dealing a card to each of the player (paragraphs 0009 and 0022); determining whether the player was dealt four royal cards of the same suit (paragraphs 0036 and 0039); awarding a bonus prize to the player (paragraph 0035), receiving a selection from the player whether to wager in a first round, taking a first ante from the player who selects not to wager in the first round (paragraph 0027). Furuta does not disclose awarding the player when the player was dealt four loyal

cards, regardless of the dealer hand, taking further antes if the player selects not to wager in the first round, and taking the player out of the game when the player folds . However, since Furuta discloses determining and awarding the player when the hand of the player meet one of a plurality of royalty bet configuration, further, since the royalty bet configuration includes the four loyal cards of the same suit (paragraphs 0036 and 0039), and since the player's hand is not required to compare with the dealer's hand to meet one of the plurality of royalty bet configuration, Furuta encompasses teaching awarding the player only when the player was dealt four loyal cards, regardless of the dealer hand. Goldman discloses taking further antes if the player decides to fold (col. 4, lines 9- 10), and Guidi discloses taking the player out of the game when the player folds (col. 6, lines 3-5). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to take the ante wagers from the player as suggested by Goldman, and to place the player out of the game if he decides to fold as taught by Guidi in order to facilitate checking hands and determining awards for winners who participates in the game.

Claim 5: Furuta discloses receiving a second ante (Royalty bet) from the player (paragraph 0022).

Claim 7: Furuta discloses receiving a play bet (paragraph 0028).

Claim 9: Guidi discloses allowing the player to wager in a plurality rounds (col. 6, lines 18-24).

Claim 10: Guidi discloses receiving a second play bet (col. 6, lines 31-33).

Claim 11: Guidi discloses taking a first ante and a first play bet if the player selects not to wager in the second round (col. 6, lines 27-29). Further, refer to discussion in claim 8 concerning taking a second ante.

Claims 12-14: Guidi discloses dealing two cards down and one card up (box 62 in Fig. 2) (col. 5, lines 58-63); then dealing one card up (box 66 in Fig. 2) (col. 6, lines 16- 18); then one card to each player (box 70 in Fig. 2) (col. 6, lines 38-40).

**3. Claims 3 and 15-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furuta et al (US 2003/0094761) in view of Guidi (US 5,839,732).**

Claims 3 and 15: refer to discussion in claim 1 above. Further, Guidi discloses the well-known standard poker hand using hands of five cards (col. 1, lines 11-13; col. 5, lines 24-30; and col. 6, lines 40-41). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide a card game with the well-known standard rules of poker using hands of five cards as taught by Guidi to the card game of Furuta in order to allow the player to play a conventional poker game.

Claim 16: playing a poker game on a gaming terminal would have been well known to a person of ordinary skill in the art at the time the invention was made.

Claims 17-25: implementing an input device, a processor, and a display in a video game machine for interactive play on the game machine, and implementing a server such as personal computer, mainframe computer, etc. on the network such as

internet or intranet network, coupling gaming machines such as personal computer, PDA, etc. via wire or wireless connection would have been old and well known.

Claim 26: refer to discussion in claims 1 and 16 above.

Claim 27: implementing a card game on a slot machine would have been well known.

### ***Response to Arguments***

4. Applicant's arguments filed 1/12/06 have been fully considered but they are not persuasive.

a) In response to applicant's argument in page 13, second paragraph, since Furuta discloses determining and awarding the player when the hand of the player meet one of a plurality of royalty bet configuration, further, since the royalty bet configuration includes the four loyal cards of the same suit (paragraphs 0036 and 0039), and since to meet one of the plurality of royalty bet configuration, the player's hand is not required to compare with the dealer's hand, Furuta encompasses teaching awarding the player only when the player was dealt four loyal cards, regardless of the dealer hand.

b) In response to applicant's argument in page 14, lines 1-8 and first paragraph, Goldman discloses that the player either folds and lose his antes (col. 4, lines 9-12), or making a wager to continue playing the card game (col. 4, lines 15-16), Goldman obviously encompasses teaching taking further antes of the player participating in the auxiliary play selecting not to wager in the game. Further, Guidi discloses that the player is out of the game if the player decides to fold (col. 6, lines 3-4). Applicant fails

to highlight the difference between the player is out of the game if the player decides to fold (col. 6, lines 3-4) as taught by Guidi and the claimed limitation taking the player out of the game when the player folds.

c) In response to applicant's argument in page 14, last paragraph, through page 15, first paragraph, refer to the 35 USC 103(a) rejections in claim 1 above. Furuta discloses awarding the player when the player was dealt four loyal cards of the same suit, regardless of the dealer hand, and Goldman discloses taking further antes of the player participating in the auxiliary play selecting not to wager in the game. Guidi does not need to show those features.

d) In response to applicant's argument in page 15, last paragraph, through page 16, that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, obviousness can be established in the knowledge generally available to one of ordinary skill in the art.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Nguyen whose telephone number is 571-272-

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4441. The examiner can normally be reached on Monday-Thursday during business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai, can be reached on 571-272-7147. The central official fax number for the organization where this application or proceeding is assigned is 571-273-8300.

kn  
Date: February 16, 2006



Kim Nguyen  
Primary Examiner  
Art Unit 3713